

COMMITTEE ON COMMUNITY IMPROVEMENT

May 8, 2007

**Aldermen Garrity, O'Neil,
Osborne, Gatsas, Duval**

6:30 PM

**Aldermanic Chambers
City Hall (3rd Floor)**

Chairman Garrity called the meeting to order.

The Clerk called the roll.

Present: Aldermen Garrity, O'Neil, Osborne, Gatsas, Duval
Alderman Forest

Chairman Garrity addressed Item 3 of the agenda:

3. Discussion relative to the Piscataquog River Park Reconstruction Project due to the April 2007 flood damage.

Chairman Garrity stated, Chuck, why don't you come on up. Mr. MacKenzie, who is going to start the discussion, you or Chuck?

Mr. Robert MacKenzie, Planning and Community Development Director stated I think Chuck is going to start it, and I'll be available for questions.

Mr. Chuck DePrima, of Parks, Recreation & Cemetery, stated as of currently...I don't know when you guys received the letter and attachments. I only received all my information two days ago, so I apologize for the Committee getting it late. We were scrambling down there with the contractor and the consultant trying to get the best information possible. Basically where we're at with that park is that it did sustain a significant amount of damage, and we're still assessing that. The Highway Department assisted us in our survey to find out how much material we lost, if any, off the soccer fields that had not been sodded yet. That and the unassessed electrical and irrigation system are still the unknowns at this point in time. But the consultants are analyzing the survey from Highway and should have quantities and a price for us. We've pretty much tallied everything up, and to get us back to where we were at 75% completion on the project when the floods hit would be in the neighborhood, again still assuming the unknowns - the extent of

the electrical underground damage and the irrigation system - would be around \$140,000. And we're just asking if the Committee could find that money and front this so we don't have to wait for FEMA and those fields would be out of commission for another fall.

Chairman Garrity asked what is the timeframe that the FEMA monies come in?

Mr. DePrima stated last time based on the Mother's Day floods, it didn't come in...the obligated funds weren't available until about July.

Chairman Garrity stated just about three months.

Mr. DePrima stated yes. Then and only then could we...because we haven't met with the FEMA project coordinator yet.

Alderman O'Neil stated Chuck, just to confirm...We have a couple different letters. One is for \$142,000. Do you know if FEMA will allow that to be reimbursed?

Mr. DePrima stated excuse me.

Alderman O'Neil stated the Fire Chief is shaking his head yes. Can that money be reimbursed?

Mr. DePrima responded yes.

Alderman O'Neil stated can I ask Mr. MacKenzie a question? He's out back. Mr. Sanders, do you have any idea of funding sources in the interim?

Alderman Forest asked can I just ask a question while we're waiting?

Chairman Garrity responded sure.

Alderman Forest stated Chuck, you said that undetermined is the underground stuff. Back in May you had that done. What did it cost back then? And I'm sure you're going to have to do it again.

Mr. DePrima stated yes in the Mother's Day floods we were actually pleasantly surprised to find out that there was not a significant amount of damage that was done to the underground conduits and feeds for the sports lighting and everything. The largest damaged sustained was the submersion of the three 50 kilovolt

transformers. The good news this time around is that two of those transformers had not been installed. That was a costly damaged item that was avoided.

Chairman Garrity stated Mr. Sanders.

Mr. Sanders stated we haven't done a detailed review of the cost estimates yet and where the money might be, but there's obviously some contingency money still available for this fiscal year that could go towards deferring some of that. As we get closer to the end of the year our forecasts of fund balance becomes more certain and there might be some monies available there.

Alderman O'Neil asked is there a concern if we take out of contingency this fiscal year and the money doesn't come till July, next fiscal year?

Mr. Sanders responded yes certainly crossing your fiscal years is an issue. I don't think if the reimbursement comes next year from FEMA, I don't think we'd be able to apply that to this year's expenditures.

Alderman O'Neil asked Mr. Chairman, may I ask Mr. MacKenzie...Bob, do you have any ideas of possible funding sources?

Mr. MacKenzie stated we have previously been exploring bond balances and there's very limited amount now. I think the only possible alternatives are contingency, one-time fund...Potentially, the City could bond but I don't think they'd want to bond for this particular amount of money. We have also been tracking Senate Bill 35, which has passed the Senate, as Alderman Gatsas knows. That will help the City if and when that passes, but again, I don't see that there could be any reimbursement this fiscal year.

Alderman O'Neil asked Chuck, how did we handle that during the Mother's Day storm of a year ago? Do you happen to recall the reimbursement from FEMA?

Mr. DePrima responded we submit invoices...reimburse

Chairman Garrity asked what's the total reimbursement from FEMA?

Mr. DePrima responded 75%

Alderman Gatsas stated Chuck, the total project, if I remember right, was three hundred and some odd thousand dollars.

Mr. DePrima stated the contract was \$475,000.

Alderman Gatsas stated okay, and of the \$475,000 we were looking at our 25% that I think Mr. MacKenzie is talking about because obviously the State took a position on the November floods that they were going to pick everything up at the local level except for \$5,000. Now, I know FEMA...Has FEMA already paid this for the Mother's Day flood? Have we had 100% reimbursement from those?

Mr. DePrima stated I believe so.

Alderman Gatsas asked does anybody know if we got money from the Federal government on the Mother's Day flood?

Mr. MacKenzie stated I know that we've gotten a good amount, but I don't know if it's 100%.

Alderman Gatsas asked what percentage have we gotten? Does anybody know that answer?

Mr. DePrima stated I can tell you what has been submitted but I don't know if the funds have been reimbursed back to the City.

Alderman Gatsas stated I wouldn't expect you to know, but I would expect somebody that gets the checks to know. Maybe Randy knows.

Chairman Garrity asked Randy do you know the percentage we've gotten back?

Mr. Randy Sherman, Finance Officer, responded from the back of the room that he couldn't recall.

Alderman O'Neil asked Chuck, is one of the differences this time that your goal is to get these fields up and running by the fall, which wasn't necessarily an objective last time.

Mr. DePrima responded it was, actually. They were going to be on line actually this spring. We were 75% complete in December when the flood hit.

Alderman O'Neil stated but in the fall of 2006, was anybody playing on those fields?

Mr. DePrima stated no.

Alderman O'Neil stated that's my point. This year you're trying to get teams on those fields by fall, so that's the challenge we're up against now.

Mr. DePrima stated if I can have...and again, time is of the essence. For example, we only laid the sod on the baseball field last December so it hasn't fully taken root yet. So it would be a lot easier for them to scrape that up now then it would be when the FEMA funds become available. Last time it looked like a wheat field out there. By the time the contractor showed, it was far more difficult. So it would be a cost savings.

Alderman Gatsas stated question for the Finance Officer: How much money is left in that one-time account that we kind of used last week for smoke and mirrors.

Mr. Sherman stated there is about \$1.8 million left.

Alderman Gatsas stated and what we did last week was not economic development so I assume we can take \$142,000 out of that account and help the kids, give them these fields in a timely manner. Maybe this time we can use voodoo economics instead of smoke and mirrors. So I guess I would make the motion that we would take it out of that one-time account and let Parks go forward to take care of the fields that need to be taken care of. I guess that's my motion, Mr. Chairman.

Chairman Garrity asked Chuck, is the \$142,000 75% of what you're getting? What's the amount you're getting from FEMA?

Mr. DePrima responded it would be 75% of actual invoices submitted. So when you give FEMA estimates, they obligate the funds and put certain place marker as you submit your invoices; they reimburse you 75%. If something unforeseen comes up in the project, you submit above and beyond what they obligated. You submit for the invoices and they will still reimburse you 75%. This \$142,000 is just an overall estimate from the contractor to get us back to where we were before the floods hit.

Alderman O'Neil stated I'll second my colleague's motion. I just will not call it smoke and mirrors.

Alderman Gatsas stated well I have a problem with that.

Alderman O'Neil stated if I may, Mr. Chairman, I do see the importance of trying to get these fields repaired. I'm aware there has been a trickle effect or a domino effect around the City. They've had to move teams from the west side to the east side. That's caused problems up at Livingston Park, in some cases. It's putting a lot of stress on our existing facilities, so the sooner we can get them back on line the better it will be.

Chairman Garrity stated if that's the money source, that's the money source, but since we only get 75% back from FEMA, I wouldn't mind taking 75% out of there, as long as it gets reimbursed. But if we take 100% of it out, all of it is not going to get reimbursed from FEMA.

Alderman Gatsas stated the City is going to have to pay for the 25% anyway. We don't know if the State is going to pick up this flood. I assume, as I said to the Finance Committee when I proposed Senate Bill 35, as I suggested to them that they hold the bill, and if there were additional funds that they were going to have, they could add them to that bill so we wouldn't have to wait another twelve months before the money was **around**. So I would think that the twenty-five... We may get everything but \$5,000 if they're going to react the same way as they did with the Mother's Day floods.

Chairman Garrity asked so that's the way they did it with the Mother's Day floods?

Alderman Gatsas responded that's the proposal. I can't tell you... That bill passed the Senate. It's now in the House. That's what I'm hoping that they're going to do. So I would say that on either occasion, we should at least take the money out of there. Whatever we get back from the FEMA side, or the State, we should replenish that fund. I don't disagree with that.

Chairman Garrity stated the Mayor has a few comments that he'd like to make.

Mayor Guinta stated thank you, Mr. Chairman. I wanted to make a few comments based on the reference to utilizing the one-time fund. I certainly share Alderman Gatsas's clear concern about using one-time monies from that account for purposes other than economic development. I certainly share his and this Board's interest in repairing this park so we can try to get kids up and running again for the soccer season. I note that Mr. DePrima in this letter only requests \$142,000. He doesn't suggest the funding source. It's up to the policy makers to identify a funding source. My request through suggestion would be that we work as a group to identify \$142,000 in spending reductions and provide it to Mr. DePrima as soon as we possibly can. I can pledge to work with this board to come up with those reductions by Tuesday for a vote at the Tuesday Board of Mayor and Alderman meeting. There are two ways to spend money. One is to continue to use one-time funds and operating expenses and deplete that account or do what I think is the more challenging but the fiscally responsible thing to do and identify spending reductions. So I know that Alderman Gatsas has certainly advocated for that approach in the past, and I'd be certainly willing to work with both Alderman Gatsas and any member of this Board to try to identify that \$142,000, but I would prefer to see it come from spending reductions elsewhere and identifying

efficiencies, rather than continuing to do what was done a little over a week ago, and what I think, and what probably many people think, was a great injustice to the fiscal responsibility of our predecessors and our past financiers of the City. So I would offer that as an opportunity for us to try to work together to meet the needs clearly of kids in our community, recognize that Mr. DePrima has a job to do, and I appreciate him trying to fast-track this, but also acknowledge that we can't continue to just spend out of one-time accounts and deplete those accounts because the result, I think, would be devastating to the City in the long run.

Alderman Gatsas stated Your Honor, I don't know if you understood what I was saying.

Mayor Guinta stated I did.

Alderman Gatsas stated let me make it a little clearer, because I'm not saying taking those funds and not replace them. While we're waiting for whatever cuts we may find, if we can get the Board to agree, that's fine. But I think we understood where we were last week with cuts, so I certainly believe that the funds shouldn't be coming out of there, but we have a source that we can replace them with, because the money is going to come from FEMA. It's not like we're taking one-time money and never replacing it. We're putting it back in as soon as we get it from the Federal government. So that, I think, is a way to do this without having to worry about whether we can find eight votes to take care of a process that needs to be done.

Mayor Guinta stated Alderman, I applaud your insight in trying to address the problem. My concern is that at some later date when we receive the FEMA money the aldermen decide to use that money for additional spending. It's clear by last week's vote there is a renewed interest in spending from areas we shouldn't be and if I thought that this Board would take the money with the expectation of replenishing it I would certainly absolutely support that. I can't say that with certainty today based on what happened at last week's Aldermanic meeting.

Alderman O'Neil stated I didn't intend tonight nor am I going to debate with you the actions of last week. Bottom line for me it's the people's money, I want to put it to work where it can best serve and last week I voted for police officers and I voted for Highway services which we hear from. I don't want to debate that. I agree with Alderman Gatsas that it's my intent in voting for this is to when the FEMA money comes in to replenish that account. It's very clear to me that if we don't act now those fields will not be ready for the fall and I can tell you that I took calls last week complaining about why are there extra teams at Livingston because this has had a domino effect around the city. Parks and the School District have had to move teams all over the city. I think we have an obligation to

the citizens to get this field, or get this complex fixed as soon as possible and that is why I seconded Alderman Gatsas' motion and I plan for it and voting for it next week with the full Board.

Alderman Forest stated I was just talking to Bob MacKenzie. In the parks and recreation master plan that was given to us last year's budget there is there some money that was bonded for the West Raiders football field on Douglas Street. Now the CSO project that is going on on the west side right now is about 8 or 9 months beyond probably won't get done this year. And I talked to Mr. MacKenzie and I can ask him to research it for your committee that if it would be possible to take the money and repair these soccer fields out of that, and then when FEMA reimburses the city to put the money back into that bonding. I'm not sure we can do that but at least it is a suggestion and it's a place that we may be able to get some money to finish that project.

Mr. MacKenzie stated I'm just not sure we are in the process that is, I know that they have gotten bids on Douglas Field.

Mr. DePrima stated we have a signed contract so I wouldn't feel comfortable spending that money elsewhere. I have a contract ready to mobilize next week.

Alderman Forest stated I understand that Edmonds is using that area as a staging area for the CSO.

Mr. DePrima stated they cleared out of there about a week ago, they don't have any of their stuff in there anymore. The site is cleared and ready for our construction.

Mr. MacKenzie stated there was savings in the bid process, was there significant savings, any potential balance from that project.

Mr. DePrima stated there is depends what balance.

Mr. MacKenzie stated but not \$142,000.

Mr. DePrima stated I don't know what it is off hand but I can get a report for somebody tomorrow.

Chairman Garrity stated if we were to take action next Tuesday night would that be.

Mr. DePrima stated yes, I still have a balance in the FEMA funds to keep them moving for a period of time and what my intent is right now is to get their

equipment back on site, to make everything save, to fill in the huge washouts, and to begin to troubleshoot the electric and the irrigation systems. So that does buy us some time

Chairman Garrity asked if they had a committee meeting before the full Board next Tuesday would that be adequate time.

Alderman O'Neil stated I am okay with that, I was also okay with moving forward on Alderman Gatsas' motion and then if there is an alternative, I am not hearing an alternative, nobody seems to know where else we can get money if there is another reasonable funding source to be used then we can amend it next week.

Chairman Garrity noted that Mr. DePrima's letter was dated May 7th, we have had only one day to come up with a solution.

Alderman O'Neil stated we need to solve this problem.

Chairman Garrity stated that is understood, it is time sensitive, I think everybody understands that.

Alderman Osborne stated it doesn't make much difference but I think we have to put the stake in the aldermen that it is going to be put back, fi the aldermen spend it on something else down the road then well, that's the way it's going to be but I think we have the money available with this I think we should go with this I think we should go with it and put a little faith in the other aldermen.

Chairman Garrity suggested that they take action next Tuesday, try to do it collectively with City staff see if we can find the proper funds.

Alderman Gatsas moved to table the item. Alderman O'Neil seconded the motion. The motion carried with none recorded in opposition.

4. Communication from Mayor Guinta submitting two specific policy recommendations for consideration as follows:

- a) potential creation of a storm water utility enterprise; and
- b) use of anticipated Rooms & Meals Tax revenues recommending such funds should be used for an Infrastructure Improvement Plan.

Mayor Guinta stated as you may recall during the budget address in March I had included several policy suggestions for different committees to review and determine if they would be in the best interest of the City and taxpayers in trying

to provide efficient and effective service. There are two policy items that I have referred to this committee, I'll quickly run over both of them and then I will ask for the first one Frank Thomas and Nelson Thibault from Hoyle, Tanner to come up and give you more specific review of the presentation. And then I'll ask Randy Sherman to talk about the Rooms and Meals tax.

Mayor Guinta then stated one of the things that I had heard during the last year and a half or so whether it be at ward by ward meetings or in talking to specific aldermen as we tried to put the CIP budget together are the many storm water related issues that we have all over the city they exist in almost every single ward. The current method in trying to address those issues is a good one, it's trying to put as much either bonding or cash into each budget as possible. But at the rate that we are currently investing in some storm water problems in the city we are not like to ever to resolve them. The purpose of this is to try to put an alternative on the table that this Board may or may not ultimately approve of but it is something I think is worthy of consideration and I'd like to take the opportunity to see if this would be a more appropriate way to identify long term dollars to solve the problem. The second of course is what to do with the additional rooms and meals money when the bond begins to be paid down for the Verizon, I think that rather than putting that money into operating of the City we should force ourselves by a policy vote of this Board to put it into an account for maintaining our infrastructure throughout the city and proving our infrastructure and coming up with a plan where all 12 wards all geographic areas of the city do receive a certain amount of that money so that we can continue to provide what everybody likes to see improvements in their neighborhoods and in infrastructure.

Frank Thomas addressed the Committee introducing Nelson Thibault a principle of Hoyle, Tanner Associates of Manchester. I asked Nelson to attend to give a brief presentation on storm water utility. Nelson's firm was instrumental in establishing a storm water utility in South Burlington, Vt. However, as the two issues are brought forward realizing surplus rooms and meals revenues to provide long term funding mechanism for roadway infrastructure and improvements is definitely needed. Establishing a capital reserve utilizing these revenues to provide long term cash funding or the ability to service coverage's to us, you have heard me come out tot he aldermen on numerous occasions requesting funds for street resurfacing, street reconstruction, sidewalks structure programs, normally I had justification, but many times the funds just weren't available to implement those projects that's why I and the department supports that proposal. However keep in mind that until this capital reserve is established and the proper amount of funds are in the account we must continue to fund infrastructure work at a reasonable level. Deferring maintenance will ultimately cost the city dearly. As an example this year asphalt prices have gone up 22% while our available funds

has gone down 9% that will be a reduction in the amount of resurfacing we will be able to do this year. Ultimately once this reserve for our infrastructure is established it is going to be a tremendous boom to addressing our infrastructure needs. Public Works also supports the concept of a storm water utility that we are going to talk about now. For the last year as you know Manchester experienced severe storms from the Mother's Day flood to the more recent flood creating problems such as that you just heard from Parks of their experience from.

Mr. Thomas outlined some of the problems experienced by residents in many areas of the city with flooding, sewer and flooding in basements, that has clearly defined at least for him that there is a need for major project efforts by the City. These are ultimately going to cost the city millions of dollars to address. We think that establishing a storm water utility should be evaluated by the Board and seriously considered as an alternative means of funding these major capital costs.

A handout was provided to the Board. Nelson Thibault stated thank you for having me here tonight. I am a principle of the firm and was somewhat involved with the City of South Burlington of that project but I don't think I have to repeat all of the issues to you I listed some of them and I don't have to tell you about the flooded streets and properties and basements that you had to deal with as aldermen with your constituents and also the sewer back ups you do have a combined system although what we are talking here tonight is more of the storm sewer, not the sanitary sewer, but certainly it impacts your system that it is combined in some areas of the city. We have all probably heard about some of the new regulatory actions that are coming down particularly with regard to non-point source solutions and storm runoff that EPA is looking at now, we have gotten rid of the big items that were really polluting your rivers, now they are looking for something to do and they are looking very closely and it is important because there is a lot of issues that we haven't looked at in the past that are being looked at more closely today when it comes to storm water. A lot of communities are developing a storm water program. I know you have somewhat of a program but as the years go by I think it is going to have to be more focused and again the ultimate is the health and economic welfare of your community and this all ties together. Again I am not going to repeat all of the causes of the problems you all know about the aging infrastructure, you have open brooks that were covered over some of this work was done hundreds of years ago, the pipe in some cases is 50 to 75 years old and it's at the end of it's design life. Again I mention the combined sewer storm and the impact of that one. As you have heard when we get these heavy rain events and I believe Senator Sununu said the other day that we have had 300 year storms in something like 18 months, some of this is due in part to more than just the weather, we certainly have the climatic changes but we also have things like you are paving a lot of the area that in the past wasn't paved, gravel parking lots areas that were undeveloped, areas that you never thought would be developed are

now being developed, being paved over and that all produces storm water run off that the people that have lived here all their lives have to live with some way, some not in a very pretty way. Again your increased vehicular traffic, you are widening your streets, increasing your parking lots, putting more cars on the road, the cars give off emission, the tires give off different pollutants and when it rains all that ends up on the streets and in the river and that is why the regulatory agencies are looking at it closely. Solutions. There are many solutions obviously. Make pipes bigger, I think Nashua recently has done some storm water treatment facilities, some of the communities are holding the water, you are doing a little of that and then pumping the water to your waste water treatment plant so it does get treatment. The bottom line in the solutions are the dollar signs. And that's what you see and what your constituents see when they pay their tax bill, and that's what this all comes down to is increased taxes, and that's the way it has been done in the past. You have bonded you increase the taxes to cover this. There are benefits to taxes. To increasing the taxes as opposed to what we are going to be talking about in a minute. The taxes are somewhat invisible to the taxpayer. Well if you do an increase they see it but they don't see where it is going, what it is for, they bitch a little bit and there is another increase to the taxes and all they have to do is read the paper to know that you are spending your money wisely and cutting back and trying to help them every way they can. Easy to collect, you don't have to form a new utility, or hire a new group of people that you have to hire to administer these programs. So there is a couple of the benefits of the way you have been doing things, which brings us to the alternative that I am here to talk about tonight, the storm water utility fee. Which is an enterprise fund, very similar to your water and sewer fees you get a separate bill for storm water, for the cost of the city to handle the cost of the storm water that you produce on your property that runs off your impervious areas. Runs off your driveways, runs off the rooftops and it runs off buildings and commercial developments and schools and churches and a lot of facilities including state highways that don't pay a tax, that don't pay their fair share towards treating the storm water. So the benefits I've listed here they are stable, your taxes can go up and down as far as what's apportioned to what need, whereas this would be dedicated towards the storm water and you would have a stable amount of money that you could depend on every year to take care of this program. Adequate, I won't get into that lot but generally we find \$1 a month per house can generate about \$25 to \$40 per acre per month and in South Burlington it came out to about \$600,000 to \$700,000 per year the first year and now it's about \$1 million a year, they are about 16 acres and you are about double that, about 33 acres. It's flexible you can offer credits to people who are good managers of their storm water, if they take care of their own storm water treatment there is ways to give them credits and it is equitable. It's based on paved areas, your impervious area and everybody across the board gets a tax whether you are a non-taxable entity and university, actually in So. Burlington, Vt. where they have a state highway going through the city they sent a bill to the state,

of course that raised some eyebrows but when the state looked at the history and in the south it has been done they negotiated with the city and came up with an equitable settlement to assist them with their storm water project and assist them in other ways so. The users in this case, the ones that generate the storm water are the ones that pay. The down side that if it is not established properly it can be challenged in court so you want to make sure that you have enabling legislation in place. Developers, universities and other people are going to question that. They want a dependable program and that can take a couple of years to develop. To wrap up I'm going to give you a little bit of So. Burlington's experience, again their area is about half the size of Manchester, they have population of 16,000 and in 2002 we were retained and the first thing we did was form a stakeholders group and start beginning work toward enabling legislation. Which was basically to look at their wastewater legislation, and add the word storm sewers to that legislation to be handled the same as the sanitary sewers in an enterprise fund. We sent about two years completing the feasibility study working with the stakeholders which included across the board developers, city people, schools, churches, it was very productive group and they worked very hard and very close together. In 2004 they proceeded they developed a utility which became operational in 2005. They have 5,100 accounts that are billed quarterly. They average resident cost, which are considered a unit, everybody that has a single family residence pays the same \$13.50 a quarter and then based on whether you have a business or large university we did aerial photographs and determined impervious area and developed the equivalent units to be billed on. The program is raising about \$1.2 million per year and about less than 1% of the accounts has been outstanding. There is about 500 nationally across the country. The first one was established in 1975. Quite a few in Florida, and in the mid-west, a recent ones in New England are Augusta, Maine Reading Massachusetts, and they are being looked at we have done several studies in New Hampshire, Franklin, NH, and they are getting popular, and I guess the last thing I say is if I wetted your appetite at all we would be happy to put on a workshop, or do a fact finding mission with some of these communities and I'll bring in the people and put this together and we can get into the real questions.

Alderman O'Neil stated there have been some models in New England that have passed this, would you expect that to set up a program in Manchester it would take two years.

Mr. Thibault responded I am not going to sugar coat that, again the key is to get the stakeholders involved. The developers, get them on board with it, get them to understand it, to buy into it, that's one of the keys it takes a little while. The enabling legislation, we don't have it in the state, New Hampshire is the only state that I know of in New England now that doesn't have the enabling legislation. I have talked to Harry Stewart up at the state and Mike before he left and Frank and

I are trying to set up a meeting with the new commissioner. A couple people at the state have indicated that we don't need enabling that the present sewer legislation covers it, I wouldn't recommend we go that way. My concern is that if you don't have all your "i's" dotted and your "t's" crossed somebody could come in after you have started and throw a monkey wrench into the whole thing.

Alderman O'Neil asked if it would be worthwhile to try to get a bill amended to allow the legislation now rather than having to wait a whole year for another piece of legislation.

Mr. Thomas stated we would love to talk about having that proposal. Mr. Thibault stated definitely.

Alderman O'Neil stated it's not unrealistic that this is going to take a little bit of time to get all stakeholders involved.

Mr. Thibault responded definitely.

Alderman O'Neil asked if the state of Vermont paid South Burlington.

Mr. Thibault responded they sent the State a bill, the State refused sent them back nasty letter. They showed some documents from some other states where the states had been taken to court and the states lost and so the state sat down and negotiated an agreement with them and backed off and worked very closely with them on some of these storm water regulations and actually agreed to do a lot of their testing and sampling at no cost to the city. So in a sense they negotiated and agreed.

Alderman O'Neil stated I think this is a worthwhile program I'd like to see us try to attempt to communicate with the legislature about getting some enabling legislation passed, so that we don't have to wait an entire year just on the legislative portion of this if in fact it is needed, and I think starting to move forward with the stakeholders in the next few months I think would be a good effort but I think this would take a lot of strain off our citizens once in fact it was up and we had a program, I think our public works people have followed our sanitary sewer program very well and addressed certain areas of the city as the mayor said earlier this would impact all twelve wards. Alderman O'Neil asked Mr. Thomas to get this moving forward we obviously need some help to do that, how do we pay for that help without the funding set up.

Mr. Thomas stated the first thing we would like to do is talk to Senator Gatsas or anybody else that can help us move that legislation forward. Second thing we would like to do we have just given you a glimpse of what a storm water utility

could be, we would like to come back maybe at a special meeting of this committee and give a more detailed presentation and at the special meeting what we can do is lay out a schedule after we've looked at the opportunities, identify tasks, obviously there is going to be a cost to this once we get down the line, you have to potentially use aerial photographs to define impervious areas, so there is a cost connected to it, ultimately once the storm water utility is established any cost that the city has to come up with in advance would be reimbursed out of the storm water utility.

Alderman O'Neil moved that the Public Works people moved forward with approaching members of the legislature. I'm sure the Mayor wants to be involved with that, trying to see if there is time working with the Manchester delegation in the House and Senate and see if we can get a bill amended just in case, I know there is discussion on whether we need enabling legislation, but it is better to be safe than to wait an entire year to get it passed. Alderman Osborne seconded the motion.

Chairman Garrity asked Alderman Gatsas as a Senator if that could happen this year.

Alderman Gatsas responded it could happen in a day if you have the right bill, but my suggestion is to start it in the House.

Alderman Forest noted that perhaps Mr. Thibault could give them the names of representatives from other communities that were planning to do it and perhaps they can sponsor something and they can work it with the Mayor as well.

In response to question from Chairman Garrity, Alderman O'Neil suggested a special meeting would be appropriate in June perhaps.

Chairman Garrity called for a vote. There being none recorded in opposition the motion carried.

Mr. Sherman stated let me try to explain what the Mayor's concept is on the infrastructure, as Frank just mentioned the cost to maintain the city's infrastructure just are absolutely staggering. If you look at the costs that have been provided for you in the handout for streets and sidewalks you could be using right now in today's dollar roughly about \$20 million just to maintain your infrastructure. I think last year Alderman Duval had asked for a projection on Hanover Street alone I believe it was over \$7 million just for sidewalks. The infrastructure that we have

is getting very little attention when it comes to funding. We have tried to do it through debt service and it is in the handout points out you are paying a considerable amount of your operating budget every year not only for the principle but also for interest. The concept being presented has to do with the money that the city receives from the state's rooms and meals tax. Just to kind of back up a little up right now those dollars go to fund the debt service on the civic center. Within a few years and I can't necessarily pinpoint exactly what year that will be because the amount of rooms and meals tax that comes back to the city is formula based and depending on how some of the variables in the formula change from year to year the year that rooms and meals tax will be available for other uses in maybe a best case scenario may be 2011. It may be 2012, 2010, 2013 depending on how things go but my best guess would be 2011. The concept would be at that point when those excess dollars do become available to the city and they are no longer required either to cover the debt service on the civic center or required to go into a debt service reserve on the civic center that those funds now be funneled into a capital reserve fund to be used exclusively for infrastructure – streets, sidewalks, streets gate..those items now are being funded through debt and you are paying interest on them, and when you are doing a 2 year bond and you are only \$10 -\$12 million and really could use 20 just on your infrastructure alone then the concept is to use money kind of term it almost like new cash that the city hasn't had before and it would be better to go into an infrastructure and capital projects rather than to roll into operating budget.

Alderman Osborne stated I'm glad you are mentioning this because I have been on this for six years. Trying to get extra money for infrastructure – streets and sidewalks. I kept saying we need to put at least another \$400,000 in the Highway budget to bring that up to at least \$900,000 because we already had \$500,000 earmarked from registration. Back 20 years ago we used to fund at least 8-900,000 every year right out of the general fund. So if there is a motion to be made on this one I want to be the first to make it.

Mr. Sherman stated I think if you talk to Frank he could bring in budget numbers that far exceed what he is receiving today. When he probably had half as many streets to maintain.

Alderman O'Neil asked is the intent of the action they are asking for is I know one of the action items is to adopt a capital reserve ordinance regarding this funding.

Mr. Sherman stated I think we would want to take two steps. I think we would want to adopt really criteria for streets, sidewalks, something that shows a plan on what we are going to be spending these dollars on, and then go back and I can work with the solicitor's office on this and actually put together an ordinance or

resolution whichever is appropriate under the statutes to set this program up and how it will be used and applied against that criteria that we have adopted.

Alderman O'Neil stated I'm guessing Mr. Thomas has most of this information for the criteria already.

Mr. Sherman stated I think that is true Highway department probably has a lot that we can work together and put that program together.

Chairman Garrity stated we should have a follow up meeting with criteria established, and a proposed ordinance.

Alderman Osborne so moved. Alderman Duval seconded the motion. The motion carried.

5. Amending resolution and budget authorization for the FY 2007 CIP 214507 Cities Readiness Initiative in the amount of \$87,518.

On motion of Alderman O'Neil, duly seconded by Alderman Osborne, it was voted to approve the resolution and budget authorization as presented.

6. Amending resolution and budget authorization for the FY2007 CIP 214607 Pandemic Flu Planning in the amount of \$30,510.

On motion of Alderman Osborne, duly seconded by Alderman Duval, it was voted to approve the resolution and budget authorization as presented.

7. Amending resolution and budget authorizations for the FY2007 for the Fire Department's Security Fiber Connections Project and the 2006 HazMat Allocation Project in the amount of \$210,207.

Alderman O'Neil moved for discussion. Alderman Osborne seconded the motion.

Alderman O'Neil stated I am confused about security fiber connections project, could I get a brief explanation of what that is.

A Fire Department representative responded that was a continuation of a project that we started this year for homeland funding and that is to lay fiber optic cable to critical infrastructure, fire stations, the low water reservoir, Police Department,

Health Department, Rines center so it is a more stable increasing band width for communications. It is a fiber we don't have. It did expand the system, not duplicating.

Alderman O'Neil moved to approve. Alderman Duval seconded the motion. The motion carried.

Chairman Garrity moved items 16 and 17 forward on the agenda.

16. Petition for layout and discontinuance of a portion of Elm East Back Street, AKA Manhattan Lane, AKA Harry Theo Drive.
(Note: Highway Department recommends petition be referred to a road hearing.)

17. Petition to discontinue a portion of Litchfield Lane.
(Note: Highway Department recommends petition be referred to a road hearing.)

Alderman O'Neil moved to refer the petitions to Road Hearing on a date to be determined by the City Clerk. Alderman Duval seconded the motion. There being none opposed the motion carried.

8. Amending resolution and budget authorization for the FY2007 CIP 612707 Neighborhood Pride – Youth Employment (Cleanstreets) Program in the amount of \$30,000.

Alderman O'Neil moved to approve the resolution and budget authorization. Alderman Duval seconded the motion.

Alderman O'Neil requested an overview, noting 30-35 young people they have to come from the target area or they can come from anywhere in the city.

Mr. MacKenzie stated they will come from various parts of the city because we are focusing on seven neighborhoods and gateways like DW Highway and Hanover Street coming into the city to clean those areas up and make them look better. We will also be working with the City Year because they have crews here for awhile and we will be putting some of them to work cleaning some of these streets too.

Alderman O'Neil stated I think this is a great program and I'd like to see the twelve wards of the city reflected with young people is there anything in place to make sure that happens and we don't have 35 kids from ward 12 or 35 kids from ward 9 exclusively on this project.

Mr. Maranto stated we are working with Office of Youth Services we are trying to target low income youth at risk to be in the program. I am also working with Salvation Army who is going to be working with us to oversee this program. So we did have a concern about just having a certain number of kids, we may have a lottery or something of that nature, so that it would be open and fair to everybody in the community. I also might add that I applied today from the workforce opportunity council for a grant to go in with CDBG funds, which would allow us to do areas outside the CDBG area as well.

Alderman O'Neil stated all right. Once this has determined the process, can the Board be informed of what the process is? There were programs way back, before my time, where each Alderman recommended X number of kids from their Ward – Workcreation or whatever it was called way, way back.

Mr. Maranto stated since we're utilizing CDBG money, the youth will have to be low income.

Alderman O'Neil stated I understand that, but there are very few sections of the City that don't have some...There are sections of just about most Wards that have some areas that might meet those qualifications.

Mr. Maranto responded that's why I asked for additional...we have some cash in this program; we're also applying for the grant funding.

Alderman O'Neil stated I'd like to see...I'm not trying to take Alderman Lopez and I out of the picture, but I'd like to see the Ward Aldermen involved with this somehow. They know best about their Wards, including some young people that maybe could use some help. So thank you, Mr. Chairman. And I'll move on the item.

There being no further discussion Chairman Garrity called for a vote. There being no opposition, the motion carried.

9. Amending resolution and budget authorization for the FY2007 CIP 712207 Hands Across The Merrimack Project in the amount of \$600,000.

Deputy City Clerk Carol Johnson stated there is a substitute that was submitted for \$849,798.28 which, it's my understanding, is based on the new amount received as part of the grant funds.

Alderman O'Neil stated I'll move, Mr. Chairman, as substituted.

The motion was duly seconded by Alderman Osborne.

Alderman Osborne asked is this all grant money?

Mr. MacKenzie stated the amount that's being added, the \$600,000, is a federal grant.

Chairman Garrity asked Mr. McKenzie, is this over and above what was approved previously, in previous years?

Mr. MacKenzie stated no, this is the total project. They have gotten the bids back and this will allow them...I mean, the money pretty much closely matches the final bid amount.

There being no opposition, the motion carried

Chairman Garrity addressed Item 10 of the agenda:

10. CIP Budget Authorizations:
810306 Economic Development Planning/Master Plan –
Revision #1

Deputy City Clerk Johnson stated it's a revision, which is basically a project extension through December 31, 2007, if I understand it correctly.

On motion of Alderman O'Neil, duly seconded by Alderman Osborne, it was voted to approve this authorization.

11. Communication from Glen Ohlund submitting a final draft of an application and review procedures for the Community Revitalization Tax Relief Incentive (RSA 79-E).

On motion of Alderman Duval, duly seconded by Alderman O'Neil, it was voted to discuss this item.

Mr. Glen Ohlund stated what you have in your packet is the final draft of this application for 79-E, which we discussed at this Committee last fall and passed on to the full Board of Mayor and Alderman. Basically, the next steps after you determine whether or not this meets your needs, the criteria in the RSA are following the document. We need to do a little bit of marketing, obviously, get this thing up on the web site, let individuals that have property within the targeted districts know about it and then we can begin accepting applications. There's a couple of pieces of information that we still need to pull together. One of them is actually through the Department of Revenue. There are assessing forms that they will provide to local assessing offices regarding the period of tax relief, information that they want to have, local communities use. Other than that, the intent of the legislation is to have these applicants, as long as they meet the baseline criteria, come back to this Committee as determined by the BMA last fall.

Alderman O'Neil stated I'll move on the final draft. Is that the correct title, Glen? ...of the Community Revitalization Tax Relief Incentive Program for the City, as presented. The motion was duly seconded by Alderman Duval.

There being no opposition, the motion carried.

12. Communication from Jay Minkarah, Economic Development Director, submitting a JacPac on-going maintenance budget update.

On motion of Alderman Osborne, duly seconded by Alderman O'Neil, it was voted to discuss this item.

Mr. Jay Minkarah, Economic Development Director, stated if I may, we do have Ken Edwards here from the Manchester Housing and Redevelopment Authority. In case there are questions, it might be prudent for him to join me. The purpose of the communication is really to just bring this Committee up to date on the funding for the JacPac site. I'm sure you're aware the CIP for FY 2005 appropriated \$3,400,000 for acquisition of the Jac Pac cite and related costs. At this point we

are still within the bottom line of that budget. But because of the length of time that the Housing Authority has held the property, some of the line items have gone over. So really, the purpose of the communication is to make you aware of that. We've got about \$161,000 left from what was appropriated to cover our expenditures which are primarily at this point security, maintenance and overhead, costs and utilities on the property. If everything goes according to plan and we are able to move forward in conveying that property, we should still be okay within that bottom line budget. I do want to make you aware that some of those line items we have exceeded. The reason why we still have \$161,000 remaining is because there are certain costs that we have not expended and we don't anticipate to, such as demolition of the buildings. This was one of the larger items within that, and there are some of the line items that we have come in under at. So, we are okay with the bottom line, but I do want to make sure that you are aware of the status of the overall budget.

Chairman Garrity asked so you don't anticipate it going into the red?

Mr. Minkarah responded no.

Chairman Garrity asked what's the length of time before it does go into the red? Do you have an estimation of that?

Mr. Minkarah responded just in talking with Mr. Edwards, we are probably looking at an average monthly cost of somewhere around \$7,500. We don't anticipate any significant one-time costs coming out of it, so we should be okay for the foreseeable future, mostly certainly if we start to bump down against that number, we'll be certain to come back to you and make you aware, long before there's an issue.

Alderman O'Neil asked Jay, would it be appropriate then to receive and file the communication? You don't need any formal action by us?

Mr. Minkarah responded yes.

Alderman O'Neil asked and we do have a draft purchase and sale? It may even be on the...

Mr. Minkarah responded yes, we do. We did receive a draft purchase and sale.

Alderman O'Neil stated it's hopeful that that will move forward in a timely matter.

Mr. Minkarah stated absolutely. It's currently under review.

Alderman O'Neil stated with that, Mr. Chairman, I will move to receive and file the communication from our Economic Development Director. The motion was duly seconded by Alderman Osborne.

Alderman Osborne asked, that \$161,000 that you have here...I know it's only costing you \$7,500 or so to...you're all right for a long time with that, right?

Mr. Minkarah responded yes.

Alderman Osborne asked so anyways, outside of that, where would this monies go if this property was sold? What could it be used for?

Mr. Minkarah responded it's my understanding that this money would come back to the City and it would be used at your discretion.

There being no opposition to the motion, the item carried.

Chairman Garrity addressed Item 13 of the agenda:

13. Communication from Kevin Sheppard, Deputy Public Works Director, submitting information relating to the FY08 Traffic Annual Striping Program and information relating to the purchase of a vehicle for one of the Highway Department inspectors.

On motion of Alderman Osborne, duly seconded by Alderman O'Neil, it was voted to discuss this item.

Chairman Garrity asked Kevin, wasn't this taken care of in the alternative budget that was presented last Tuesday night? I believe some of it was, right?

Mr. Kevin Sheppard, Deputy Public Works Director, responded correct. There are two parts to this. The first part I'll talk about was we had asked for \$75,000, I believe it was, to contract out straight line painting, as part of our Traffic Division. As part of the budget that was approved, we are keeping those employees, and we feel confident that we'll be able to do that work in house this year. So I guess that's a moot point. The second part of it was, there's a new vehicle policy, or standard policy, being developed by the City Auditor. I had a chance to review it. One of the things he's looking at is asking departments to take a look at City vehicle use or even private vehicle use. We currently have an inspector that does all subdivisions here in the City. He drives...I'm not too sure of the miles...It turns out to be \$300 to \$400 worth of reimbursement a month. So, I'd talked to Alderman Garrity about this and he asked me to bring it before the Board, which was our plan. We felt it was better to...there's a balance in this year's MER

account that we feel we could buy a small pick up truck for probably \$11,000. We could assign that vehicle to our inspection division, and we then would not have to be paying the \$300 to \$400 a month for miles reimbursement.

Alderman Osborne asked the \$75,000...Where would that be going now that you're going to be doing it in house? Where is this \$75,000...

Mr. Sheppard stated that was actually a request for additional funds as part of the CIP.

Alderman Osborne stated okay, and this, was it okayed?

Mr. Sheppard stated that was not part of the CIP, so at this point, the CIP in the budget has been approved, so there's no need for that funding at this time.

Alderman O'Neil asked can we break out the two items?

Chairman Garrity responded sure.

Alderman O'Neil stated I'll move on the vehicle, out of this current year, '07 MER. The motion was seconded by Alderman Osborne.

There being no opposition, the motion carried.

Alderman O'Neil stated Kevin, I know part of why you looked at contracting out some of the major striping was because of staffing. With staffing is it stabilized for this year. Will you look at the possibility of, even if staffing in future years stays current, looking at the possibility for the major streets? I know part of the plan always was for our own crews to do the crosswalks with the smaller striping machines.

Mr. Sheppard stated I'm glad you asked that question because that is a second part of that. Our thought was that it wasn't necessary to replace the employees. What it was actually for was to allow us to contract out a lot of the straight line striping and allow our employees to concentrate on the crosswalks or the parking lanes or other areas that need attention in the City. Right now, not every stripe in the City gets painted every year. The Traffic Committee is actually looking at modifying our crosswalk pattern. If that gets approved by the Traffic Committee, we won't have time to get all that work done. So I think by allowing us to contract some of that work out in the future, we'll become more efficient by getting a lot more of the pedestrian and smaller type work done.

Alderman O'Neil stated and if I may, Mr. Chairman, what I've seen in other communities, they don't come in with just one truck. They come in with three or four or six of these big trucks and in the middle of the night just bang out line after line after line in these communities. So, and the fact that it still would allow our existing staff to do more of the small work, which may not also be getting done. And the Deputy Director is correct: What the Public Safety and Traffic Committee has approved regarding crosswalks is going to be a little more involved than currently has been done in the City, and I think that's the right thing to do. There's an emphasis on crosswalks in public safety, so it may be that we need to look at contracting out what you referred to as straight line work. And that may make some sense. You're not asking for a vote on that this evening?

Mr. Sheppard responded no. Whereas the CIP has already moved forward and the budget has already moved forward, I think next year we will carry it as part of our CIP request though.

Alderman Osborne asked that would be depending on what happens in the Traffic Committee, right?

Mr. Sheppard responded correct. I still think there is additional work that could be done, but...

Chairman Garrity asked so am I to understand that this was funded in the alternative budget?

Mr. Sheppard responded no. It was not funded.

Chairman Garrity stated all right. Sorry for the confusion. I only had thirty minutes to look at it. Do we need a motion on Item 13?

Deputy City Clerk Johnson responded I don't think so.

Chairman Garrity addressed Item 14 of the agenda:

14. Communication from Bruce Thomas, Engineering Manager, requesting funding in the amount of \$62,100 as part of the City's Chronic Drain Program for construction of drain lines on Lebel Street and Skyline Drive.

Chairman Garrity stated now this one I saw in the alternative budget, I think. Is that correct?

On motion of Alderman O'Neil, duly seconded by Alderman Duval, it was voted to approve this item.

Chairman Garrity addressed Item 15 of the agenda:

15. Communication from Robert MacKenzie, Director of Planning and Community Development, relative to potential funding in the amount of \$500,000 for the Karatzas Avenue (Stella Arms) Housing Project.

Alderman Osborne moved to accept this communication. The motion was duly seconded by Alderman O'Neil.

Chairman Garrity asked discussion, Alderman Osborne?

Alderman Osborne responded yes. Mr. MacKenzie, where do you have in mind where the money would be coming from?

Mr. MacKenzie, stated we would actually propose to patch together different funding sources in the FY '08 budget. There is a project called Housing Initiatives that we could put together Affordable Housing Trust Fund money and HUD monies in order to do the project.

Alderman Osborne asked and the total has come up to where so far?

Mr. MacKenzie stated \$500,000.

Alderman O'Neil asked Bob, at one point we, correct me if I'm wrong, had a discussion about the entire amount coming out of the Affordable Housing Trust Funds, and I think we've held off on funding other projects because of the importance of this project. What has brought about the shift in thinking?

Mr. MacKenzie stated I think part of our concern was that there was some interest in getting the project approved in this fiscal year, but I think that...and I'll give you a possible recommendation...I think if the Board approved the loan and earmarked the money by the FY '07 budget, I don't think they'll actually start construction until after July 1st. But they do need some indication for the various other funding sources that it's approved.

Alderman O'Neil stated all right. Bring me back. Was there a discussion here about the entire amount coming out of the Affordable Housing Trust?

Mr. MacKenzie responded there was a discussion about a large chunk of it. The City did allocate \$400,000 to the lead paint program, because we got a Federal grant. And there was discussion at that time as to whether we needed all of that \$400,000 right off the bat or whether that could be phased over three years. So there was a discussion on that part.

Alderman O'Neil asked what's the balance in the Affordable Housing Trust?

Mr. MacKenzie responded after earmarking that \$400,000 for the lead paint, it's about \$100,000.

Alderman O'Neil stated thank you. And, is there a specific plan on if...we're talking about using \$100,000 of the balance. How was the other \$400,000 going to break down between CDBG and Home Funds?

Mr. MacKenzie stated it would be all Home Funds in next year's allocation starting July 1st.

Alderman O'Neil stated and both funding sources are loans or are there some grants here?

Mr. MacKenzie stated we are recommending that they be loans because some of the pools of our funds are drying up. We have recommended that they be loans.

Alderman O'Neil asked and does that affect the project at all?

Mr. Anagnost responded no Alderman. We're in total agreement of the repayment of the funds, as we have in all the previous projects.

Alderman O'Neil asked Mr. Webster's fine with that?

Mr. Webster responded absolutely.

Chairman Garrity asked any further discussion, gentlemen?

Mr. MacKenzie stated if I could just suggest a motion...that the motion would be that the City approve a loan of \$500,000 for the Stellar Arms Work Force Housing project, and that the Board earmark that amount of money in the Housing Initiatives Project.

Chairman Garrity asked and that would be in the amount of \$400,000, right?

Mr. MacKenzie responded \$500,000.

Chairman Garrity stated I'm a little bit confused. I thought the \$100,000 was going to come out of this fiscal year. The \$100,000 of Affordable Housing Trust money is going into that Housing Initiatives Project. So we could use that part earlier, but it would be an FY '08 project.

Alderman O'Neil stated that is my motion. Just a question for either the authority or Mr. Anagnost: There was some issue with timing at one point. Are you okay with the timing as presented?

Mr. Anagnost responded yes, it works out perfect. If this passes for the '08 budget we'll probably break ground sometime mid to the end of June, and we'd be in construction in July when the money became available.

There being no further discussion, Chairman Garrity called for a vote on the motion to approve made by Alderman O'Neil and seconded by Alderman Duval. The motion carried.

19. Communication from Lowell Terrace Associates proposing a mortgage/debt consolidation for property located at the northwest corner of Lowell and Chestnut Streets.
(Tabled 08/14/2006. Further information submitted by Finance available for viewing at the Office of the City Clerk and previously forwarded to Committee members.)

On motion of Alderman O'Neil, duly seconded by Alderman Duval, it was voted to remove this from the table.

Mr. Randy Sherman, Acting Finance Director, stated let me again just kind of give you a little brief history, background on this project. This is the red brick building on the corner of Lowell and Chestnut Streets. It's a project that the building was burnt out back in the 1980's and subsequently was rehabbed and is housing for Section 108 right now. There were two mortgages that the City put on this property. The City loaned a total of \$1.5 million to the project. The first mortgage was \$1.25 million; the second mortgage was \$250,000. The reason we're here tonight is that the second mortgage is actually due and payable. The first mortgage has monthly payments that go all the way through July of 2013. The second mortgage required interest payments only from cash flow with a balloon payment after 20 years. That 20-year date came due last May, so May of '06. The issue on the second mortgage is, if you look at the promissory note, is

that the second mortgage, when it came due for the balloon payment, was to equal one half of the fair market value of the property at that time. The problem that staff and the partnership are running into at this point is that initially we had envisioned, or when this was written back in the 1980's, we had envisioned that the first mortgage would be paid in its entirety at this point. So, then when you came down and it was time for the balloon payment on the second mortgage, there was no first mortgage, and then we would just settle up on half of the market value to pay off the second mortgage. The first mortgage has been restructured several times over the past 20 years, and again, has now been extended out to 2013. There is a dispute between staff and the partnership on how you now calculate the fair market value for the second mortgage. The City holds that the fair market value is a typical fair market value, what you would get in an arms-length transaction. And the partnership is holding that the fair market value should be adjusted by the outstanding balance on the first mortgage. I think where the confusion comes is, in the note, if there is a default, it defines how you calculate fair market value and it says that you would deduct the balance from the first mortgage. However, when it talks about the balloon payment, it does not define fair market value that way. So we have this disagreement between staff and the partnership and really what we're doing is we're bringing this forward to the Committee and asking us which way you would like us to go. We cannot, obviously, as staff, adjust the agreement. Only the Aldermen can adjust the agreement, and hopefully you have a letter from Mr. Morgan dated May 3rd. Hopefully I'll receive this over the weekend. Mr. Morgan has actually laid out three different scenarios on how we can resolve this issue. And you could probably take this and come up with three or four other variations on dealing with this. The first option that Mr. Morgan is presenting is to extend the second mortgage to equal the same term as the first mortgage, which would actually require the balloon payment to be due and payable on July 1, 2013. The second would be if the City holds its position and says that there is no deduct for the first mortgage. The City obviously would have the issue of finding the mortgage in default. The third option presented by Mr. Morgan is that we do agree that the first mortgage can be deducted, and then they would go out and make that balloon payment - get financing and make that balloon payment. So those are the three options that are presented to the City for the Board's consideration. Sorry that was probably quick and a little confusing, but I can certainly take any questions that you have.

Alderman Osborne asked when you said the \$250,000 would just be added into the first mortgage of \$1.25 million, is that what you're saying? To bring it to \$1.5 million?

Mr. Sherman responded right. The first mortgage was for \$1.25 million and is being paid monthly, and that is up to date. The second mortgage was \$250,000.

Alderman Osborne stated so the problem here lies with the second mortgage.

Mr. Sherman stated the second mortgage is due and payable, and again, the way the note is written, the payment amount should equal one half of the fair market value of the property.

Alderman Osborne asked and what is the fair market value? Nobody knows. Is that what you're saying?

Mr. Sherman stated well, the fair market value, again, I can tell you really isn't determined. The assessed value is over \$2 million. Now whether that holds up as the true fair market value or not, is subject to debate.

Alderman Osborne stated so no part of this second mortgage could be paid at all?

Mr. Sherman stated they are offering to pay off the second mortgage, but what they would like to do is determine the fair market value, deduct the balance on the first mortgage, which is roughly around \$470,000, and then give the City 50% of the difference.

Chairman Garrity asked Randy, do we have an estimate from our assessors of what the fair market value is?

Mr. Sherman responded well, again, the assessors are going with the \$2.2 million. I know that they have filed for an abatement, so that, obviously is subject to change. But that's the assessed value, and that's where they think the fair market value is.

Chairman Garrity asked and that's where our assessors think the fair market value is?

Alderman Duval asked no recent appraisal done on the property, Randy?

Mr. Sherman responded no.

Alderman O'Neil stated question for Mr. Sherman: Randy, of the three options presented, do you have a recommendation?

Mr. Sherman responded I think staff met this afternoon and I think our position would be the best interest for the City, really, would be option one. If we extend the second mortgage to equal the same term as the first mortgage, on July 1, 2013, the first mortgage will be paid off and then 50% of the fair market value will be 50% of fair market value. There will be no deduct of the first mortgage because it

will be zero. That's relatively a short period of time, six years. But again, right now they're asking to deduct \$470,000 which, if you think about it, they're going to give us 50%; that's \$235,000. So if you wait six more years, you'll get that \$235,000 plus 50% of any more appreciation on the property.

Alderman O'Neil asked may I ask the same question of the solicitor, Mr. Chairman? Tom?

Mr. Clark stated the staff met this afternoon and I was part of that staff. It was our determination that option one would be in the best interest of us and to the developers also.

Chairman Garrity asked if we don't take any of the options, what's the total due to the City?

Mr. Sherman responded again, we would have to determine what the fair market value is, and then, the way the documents are written right now, we would request 50% of that fair market value. I think that what that would do is then force us to number two, which would mean we'd have to call them in default and go into foreclosure.

Chairman Garrity asked what's that amount?

Mr. Sherman responded well again, if we use the \$2.2 million as the assessed value, it would be \$1.1 million.

Chairman Garrity asked any further discussion from the Committee?

Alderman Osborne stated I just want to ask him a question: By using option one, we wouldn't have any problem at all? The City would be okay and not lose anything or gain by this?

Mr. Sherman stated well again, I think that would put the City in the best place. We would have to go back, again I'd defer to Tom Clark. I think we'd want to amend the documents to extend that date, but I think that ultimately at the end that would put you in the best position.

Chairman Garrity stated I'm going to request, Gentlemen, could I request that we go into non-public to meet with legal counsel on this? Can I get a motion to that effect, Gentlemen, please?

On motion of Alderman Duval, duly seconded by Alderman Osborne, it was voted to go into non-public session to meet with legal counsel.

Chairman Garrity called the meeting back to order.

Alderman O'Neil asked Mr. Chairman, could we hear from the partners?

Chairman Garrity stated Lowell Terrace and Associates, please.

Mr. Peter Morgan, managing partner of Lowell Terrace, stated good evening.

Alderman O'Neil stated Mr. Morgan, just a simple question: These were three of your suggestions if the City agrees to extend the term on the second mortgage to be concurrent with the first mortgage? The partners are in favor of that?

Mr. Morgan responded we would like to get it resolved. That would certainly work for us, sure.

Alderman O'Neil stated okay, that specific option?

Mr. Morgan stated if that's what the City would prefer and it's one of our choices, that's fine. I think we can move forward and get that done.

On motion of Alderman Osborne, duly seconded by Alderman Duval, it was voted to accept option one.

Chairman Garrity asked is that going to come back to this Committee for approval or what's the deal, Randy, or does it just goes straight to Finance?

Mr. Sherman stated no, we'll have to draft up an amendment and we'll bring it back to you.

Chairman Garrity asked so next month sometime? That will be fine.

Mr. Morgan stated this has really been a very successful project for the City. The building had a major fire in 1980. The building was open and the roof was open for the next four years. It was the City's effort to say, is there a way that we could move forward, save this building, and create more housing, available housing stock downtown for lower income people? So, working with the City, and the City's part of this participation came from Community Block Grant funds. So that \$1.5 million is money that you were able to capture through a Federal program. Not only did you get the building back – it's a viable building, still working – you got it upgraded on the tax rolls, but in addition to that, you've continued to get interest on it, and when we've made cash flow distributions on essentially our \$250,000 and your \$250,000, our equity, both of us have shared that. And so

you've been getting a return on that money. You've gotten an increased value in the building. You've improved the building, and you've added to your housing stock. This has really been a very, very successful public/private joint venture that we started 23 years ago. I appreciate your efforts to continue this in an amicable way, so when we have disputes, we get them solved.

Alderman Osborne stated sir, I remember that because I was an Alderman back then and I remember that fire and everything else. So I kind of concur with you.

Alderman O'Neil stated I just want to thank the gentleman for driving down from Brunswick, Maine.

Chairman Garrity stated real quick, Gentlemen...some resolutions, right Carol?

Deputy City Clerk Johnson stated Mr. Chairman, we do have an amending resolution and budget authorizations relating to CSO abatement projects.

On motion of Alderman O'Neil, duly seconded by Alderman Duval, these items were approved.

18. Petition to discontinue a portion of So. Bedford Street.
(Tabled 07/11/2006. On July 11, 2006, the BMA voted to refer this matter also to the Special Committee on Riverfront Activities and Baseball. Tabled in Riverfront Committee on 11/13/2006.)
This item remained on the table.

20. *Security estimate provided by Pelmac Industries for property located behind the West Side Ice Arena and the Jr. Deb Softball field.*
(Tabled 10/23/2006 pending reports from Parking, Planning and CIP.)
This item remained on the table.

There being no further business, on motion of Alderman Duval, duly seconded by Alderman Osborne, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee